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7 HAPTIC, INC.,  
8 Plaintiff,  
9 v.  
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11 APPLE, INC.,  
12 Defendant.

13 Case No. 24-cv-02296-JSC

14 **PRETRIAL ORDER NO. 1**

15 Following the initial Case Management Conference held on May 16, 2024, IT IS  
16 ORDERED:

17 **I. CASE MANAGEMENT SCHEDULE**

<b>Task</b>	<b>Deadline</b>
Service of Preliminary Infringement Contentions, Identification of Priority Dates, and Production of Patent Documents and File Histories	May 30, 2024
Stipulated Protective Order and ESI Order	May 30, 2024
ADR Certification	June 27, 2024
Service of Preliminary Invalidity Contentions and Production of Prior Art References	July 15, 2024
Parties Exchange Lists of Proposed Terms for Claim Construction and Why the Construction Matters	July 29, 2024
Parties Exchange Proposed Claim Constructions and Disclose Extrinsic Evidence	August 12, 2024
Deadline to Meet and Confer to Narrow Disputed Terms and Exchange Revised List of Terms and Constructions	August 19, 2024
Joint Claim Construction and Prehearing Statement	August 29, 2024
Damages Contentions	September 3, 2024
Close of Claim Construction Discovery	September 30, 2024
Responsive Damages Contentions and Final Disclosure of Non-Infringing Alternatives	October 3, 2024
Opening Claim Construction Brief	October 15, 2024
Responsive Claim Construction Brief	October 29, 2024
Reply Claim Construction Brief	November 5, 2024
<i>Markman</i> Hearing	December 6, 2024
Close of Fact Discovery	February 28, 2025
Opening Expert Reports	April 4, 2025

1	Rebuttal Expert Reports	May 2, 2025
2	Close of Expert Discovery	May 30, 2025
	Deadline to Move to Amend Pleadings	May 30, 2025
	Dispositive and <i>Daubert</i> Motion Filing Deadline	June 26, 2025

4 A further Case Management Conference is scheduled for August 22, 2024 at 1:30 p.m. via  
5 Zoom video. An updated Joint Case Management Conference Statement is due August 15, 2024.  
6 The Court will be particularly interested in the progress of claim construction discovery.

7 **II. DISCOVERY DEADLINES**

8 All depositions must be noticed at least 30 days before the close of fact discovery. Any  
9 discovery-related letter briefs or motions are due one week after the close of fact discovery. The  
10 same rules apply to expert discovery. *See* N.D. Cal. Civ. L.R. 37-3. For fact witnesses, each side  
11 is limited to a total of 100 hours. Expert depositions shall be limited to seven hours, absent  
12 agreement of the parties or court order permitting more time.

13 **III. TRIAL DATE**

14 A. Jury trial will begin on September 29, 2025, at 8:30 a.m., in Courtroom 8, 19th  
15 Floor, U.S. District Court, 450 Golden Gate, San Francisco, California.

16 B. The Court is expecting the length of the trial to not exceed 5 court days. Each side  
17 is likely to be limited to 10 hours for direct and cross-examination; additional time is given for  
18 openings and closings and potentially for willfulness issues.

19 **IV. PRETRIAL CONFERENCE**

20 A Final Pretrial Conference shall be held on September 3, 2025, at 2:00 p.m., in  
21 Courtroom 8, 19th Floor. Lead trial counsel for each party shall attend.

22 A. At least seven days prior to date of the Final Pretrial Conference the parties shall do  
23 the following:

24 1. In lieu of preparing a Joint Pretrial Conference Statement, the parties shall  
25 meet and confer in person, and then prepare and file a jointly signed Proposed Final Pretrial Order  
26 that contains: (a) a brief description of the substance of claims and defenses which remain to be  
27 decided; (b) a statement of all relief sought; (c) all stipulated facts; (d) a joint exhibit list in  
numerical order, including a brief description of the exhibit and Bates numbers, a blank column

1 for when it will be offered into evidence, a blank column for when it may be received into  
2 evidence, and a blank column for any limitations on its use; and (e) each party's separate witness  
3 list for its case-in-chief witnesses (including those appearing by deposition), including, for all such  
4 witnesses (other than party plaintiffs or defendants), a short statement of the substance of his/her  
5 testimony and, separately, what, if any, non-cumulative testimony the witness will offer. For each  
6 witness, state an hour/minute time estimate for the direct examination (only). Items (d) and (e)  
7 should be submitted as appendices to the proposed order. The proposed order should also state  
8 which issues, if any, are for the Court to decide, rather than the jury.

9           2. File a joint set of proposed instructions on substantive issues of law  
10 arranged in a logical sequence. If undisputed, an instruction shall be identified as "Stipulated  
11 Instruction No. \_\_\_\_ Re \_\_\_\_\_," with the blanks filled in as appropriate. If disputed, each  
12 version of the instruction shall be inserted together, back to back, in their logical place in the  
13 overall sequence. Each such disputed instruction shall be identified as, for example, "Disputed  
14 Instruction No. \_\_\_\_ Re \_\_\_\_\_ Offered by \_\_\_\_\_," with the blanks filled  
15 in as appropriate. All disputed versions of the same basic instruction shall bear the same number.  
16 Any modifications to a form instruction must be plainly identified. If a party does not have a  
17 counter version and simply contends that no such instruction in any version should be given, then  
18 that party should so state (and explain why) on a separate page inserted in lieu of an alternate  
19 version. With respect to form preliminary instructions, general instructions, or concluding  
20 instructions, please simply cite to the numbers of the requested instructions in the current edition  
21 of the Ninth Circuit Model Jury Instructions. Other than citing the numbers, the parties shall not  
22 include preliminary, general, or concluding instructions in the packet.

23           3. File a separate memorandum of law in support of each party's disputed  
24 instructions, if any, organized by instruction number.

25           4. File a joint set of proposed voir dire questions supplemented as necessary  
26 by separate requests.

27           5. File trial briefs on any controlling issues of law.

28           6. File proposed verdict forms, joint or separate.

1           7.     File and serve any objections to exhibits.

2           8.     File a joint simplified Statement of the Case to be read to the jury during  
3 voir dire as part of the proposed jury instructions. Unless the case is extremely complex, this  
4 statement should not exceed one page.

5           B.     Any motions in limine shall be submitted as follows: at least twenty (20) calendar  
6 days before the conference, the moving party shall serve, but not file, the opening brief. At least  
7 ten (10) calendar days before the conference, the responding party shall serve the opposition.  
8 There will be no reply. When the oppositions are received, the moving party should collate the  
9 motion and the opposition together, back-to-back, and then file the paired sets at least seven (7)  
10 calendar days before the conference. Each motion should be presented in a separate memorandum  
11 and properly identified, for example, "Plaintiff's Motion in Limine No. 1 to Exclude . . ." Each  
12 party is limited to bringing five motions in limine. The parties are encouraged to stipulate where  
13 possible, for example, as to the exclusion of witnesses from the courtroom. Each motion should  
14 address a single, separate topic, and contain no more than seven pages of briefing per side.

15           C.     Hard-copy courtesy copies of the above documents shall be delivered by NOON  
16 the day after filing. The Joint Proposed Final Pretrial Order, jury instructions, and verdict form  
17 shall also be submitted via e-mail as Word attachments to jsc\_settlement@cand.uscourts.gov. The  
18 Court requests that all hard-copy submissions be three-hole-punched.

19           **V. PRETRIAL ARRANGEMENTS**

20           A.     Should a daily transcript and/or real-time reporting be desired, the parties shall  
21 make arrangements with Kristen Melen, Supervisor of the Court Reporting Services, at  
22 (415) 522-2079, at least ten (10) calendar days prior to the trial date.

23           B.     During trial, counsel may wish to use overhead projectors, laser-disk/computer  
24 graphics, poster blow-ups, models, or specimens of devices. Equipment should be shared by all  
25 counsel to the maximum extent possible. The Court provides no equipment other than an easel.  
26 The United States Marshal requires a court order to allow equipment into the courthouse. For  
27 electronic equipment, parties should be prepared to maintain the equipment or have a technician  
28 handy at all times. The parties shall tape extension cords to the carpet for safety. The parties may

1 work with the deputy clerk, Ada Means (415-522-2015), on all courtroom-layout issues.

## 2 SCHEDULING

3 Trial will be conducted from 8:30 a.m. to 2:30 or 3:00 p.m., depending on the availability  
4 of witnesses, Monday through Friday. Counsel must arrive by 8:15 a.m., or earlier as needed, for  
5 any matters to be heard out of the presence of the jury. The jury will be called at 8:30 a.m.

## 6 THE JURY

7 The Jury Office asks prospective jurors to complete an online jury questionnaire in  
8 advance of their summons date. The standard questionnaire available on the Northern District's  
9 website at [http://www.cand.uscourts.gov/wp-content/uploads/attorneys/Internet-version\\_Standard-CAND-Trial\\_SurveyMonkey\\_3-2022.pdf](http://www.cand.uscourts.gov/wp-content/uploads/attorneys/Internet-version_Standard-CAND-Trial_SurveyMonkey_3-2022.pdf). The parties are allowed to add 10 case specific  
10 questions to the questionnaire. The parties shall meet and confer, and to the extent possible, file a  
11 joint list of proposed questions to add to the questionnaire. To the extent that the parties cannot  
12 agree, they may submit separate proposed questions from which the Court will choose 10. The  
13 parties joint or separate submissions are due 21 days before trial. The Court will provide the  
14 parties with the survey responses the Friday before trial.  
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16 In civil cases, there are no alternate jurors and the jury is selected as follows: Eighteen to  
17 twenty jurors are called to fill the jury box and the row in front of the bar, and are given numbers  
18 (1 through 20). The remaining potential jurors will be seated in the public benches. Hardship  
19 excuses will usually be considered at this point. Counsel may conduct a limited voir dire.  
20 Challenges for cause will then be addressed out of the presence of the potential jurors. The Court  
21 will consider whether to fill in the seats of the stricken jurors. If so, questions will be asked of the  
22 additional jurors and cause motions as to them will be considered. After a short recess, each side  
23 may exercise its allotment of peremptory challenges out of the presence of the potential jurors.  
24 The eight (or such other size as will constitute the jury) surviving the challenge process with the  
25 lowest numbers become the final jury. If more (or fewer) than eight jurors are to be seated, then  
26 the starting number will be adjusted. So too if more than a total of six peremptories are allowed.  
27 Once the jury selection is completed, the jurors' names will be read again and they will be seated  
28 in the jury box and sworn. The Court may alter this procedure in its discretion and after

1 consultation with the parties.

2 **WITNESSES**

3 At the close of each trial day, all counsel shall exchange a list of witnesses for the  
4 next two full court days and the exhibits that will be used during direct examination (other than  
5 for impeachment of an adverse witness). Within 24 hours of such notice, all other counsel shall  
6 provide any objections to such exhibits and shall provide a list of all exhibits to be used with the  
7 same witness on cross-examination (other than for impeachment). The first notice shall be  
8 exchanged prior to the first day of trial. All such notices shall be provided in writing.

9 **EXHIBITS**

10 A. Prior to the Final Pretrial Conference, counsel must meet and confer in person to  
11 consider all exhibit numbers and objections and to eliminate duplicate exhibits and confusion over  
12 the precise exhibit.

13 B. Use numbers only, not letters, for exhibits, preferably the same numbers as were  
14 used in depositions. Blocks of numbers should be assigned to fit the need of the case (e.g.,  
15 Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.). A single  
16 exhibit should be marked only once. If the plaintiff has marked an exhibit, then the defendant  
17 should not re-mark the exact document with another number. Different versions of the same  
18 document, e.g., a copy with additional handwriting, must be treated as different exhibits with  
19 different numbers. To avoid any party claiming “ownership” of an exhibit, all exhibits shall be  
20 marked and referred to as “Trial Exhibit No. \_\_\_\_\_,” not as “Plaintiff’s Exhibit” or “Defendant’s  
21 Exhibit.”

22 C. Exhibits tags: Exhibits must be labeled in the lower right-hand corner with the  
23 exhibit number in a prominent, bold typeface.

24 D. Counsel must consult with each other and with the deputy clerk at the end of each  
25 trial day and compare notes as to which exhibits are in evidence and any limitations thereon. If  
26 there are any differences, counsel should bring them promptly to the Court’s attention.

27 E. The parties shall provide the Court with one official set of the record exhibits seven  
28 (7) days before the Pretrial Conference. Each exhibit must be separated with a label divider

1 identifying the exhibit number. Spine labels should indicate the numbers of the exhibits that are in  
2 the binders. At trial, the parties shall provide individual witness exhibit binders which contain all  
3 the exhibits the parties expect to use with the witness. The parties shall provide two copies of each  
4 witness binder: one for the witness and one for the Court.

5 F. Before the closing arguments, counsel must confer with the deputy clerk to make  
6 sure the exhibits in evidence are in good order.

7 G. Exhibit notebooks for the jury will not be permitted without prior permission from  
8 the Court. Publication must be by poster blow-up, overhead projection, or such other method as is  
9 allowed in the circumstances. It is permissible to highlight, circle or underscore in the  
10 enlargements as long as it is clear that it was not on the original.

#### CHARGING CONFERENCE

12 As the trial progresses and the evidence is heard, the Court will fashion a comprehensive  
13 set of jury instructions to cover all issues actually being tried. Prior to the close of the evidence,  
14 the Court will provide a draft final charge to the parties. After a reasonable period for review, one  
15 or more charging conferences will be held at which each party may object to any passage, ask for  
16 modifications, or ask for additions. Any instruction request must be renewed specifically at the  
17 conference or it will be deemed waived, whether or not it was requested prior to trial. If, however,  
18 a party still wishes to request an omitted instruction after reviewing the Court's draft, then it must  
19 affirmatively re-request it at the charging conference in order to give the Court a fair opportunity  
20 to correct any error. Otherwise, as stated, the request will be deemed abandoned or waived.

#### IT IS SO ORDERED.

22 Dated: May 16, 2024

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JACQUELINE SCOTT CORLEY  
United States District Judge

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